REMARKS

Summary of the Office Action

Claims 1-20 stand objected to for alleged informalities.

Claim 11 stands rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.

Claims 1-20 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite.

Claims 1-6 and 10-16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Cluts (U.S. Patent No. 5,616,876) (hereinafter "Cluts").

Claims 7-9 and 17-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cluts.

Summary of the Response to the Office Action

Applicants have amended claims 1-20 to differently describe embodiments of the disclosure of the instant application's specification and/or to improve the form of the claims. Accordingly, claims 1-20 remain currently pending for consideration.

Claim Objections

Claims 1-20 stand objected to for alleged informalities. Claims 1-20 have been newly-amended to differently describe embodiments of the disclosure of the instant application's specification and/or to improve the form of the claims. Applicants have incorporated helpful suggestions and responded to comments provided by the Examiner at pages 2-4 of the Office Action. Accordingly, Applicants respectfully request that the claim objections be withdrawn.

While Applicants have changed, for example, some claim language, such as "for accumulating" in claim 1 to --that accumulates,-- in accordance with the Examiner's suggestions, other claim language such as "an inputting device for receiving a user's input of the search condition" is newly presented. Applicants respectfully submit that this "device for receiving" claim language, for example, is fully consistent with standard U.S. patent claim practice. A discussion of how the MPEP specifically directs that such functional language is appropriate in U.S. patent claim drafting practice is provided below in a separate section so that it does not need to be repeated in multiple portions of this response.

Rejection under 35 U.S.C. § 101

Claim 11 stands rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicants have amended claim 11 in accordance with the Examiner's helpful comments at pages 4-5 of the Office Action. Accordingly, Applicants respectfully submit that claim 11, as amended, fully complies with 35 U.S.C. § 101. Withdrawal of the rejection under 35 U.S.C. § 101 is respectfully requested.

Rejections under 35 U.S.C. § 112, Second Paragraph

Claims 1-20 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1-20 have been newly-amended to differently describe embodiments of the disclosure of - the instant application's specification and/or to improve the form of the claims in response to the Examiner's comments at pages 5-7 of the Office Action. Applicants respectfully submit that the

claims, as amended, fully comply with 35 U.S.C. § 112, second paragraph. As a result,

withdrawal of the rejections under 35 U.S.C. § 112, second paragraph is respectfully requested.

Response to the portions of the Office Action's Objections and Rejections Regarding Alleged "Functional Limitations"

The above-discussed rejections and objections include some portions pertaining to the

Office Action's assertions that certain claims include functional limitations which allegedly do

not carry any patentable weight. While Applicants have amended some portions of the claims in

response to the Examiner's comments in these regards, to the extent that the Examiner might

assert that similar issues still exist with the claims, as newly-amended, they are respectfully

traversed for at least the following reasons.

MPEP § 2173.05(g) specifically directs in this regard that "[a] functional limitation is an

attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its

specific structure or specific ingredients). There is nothing inherently wrong with defining some

part of an invention in functional terms. Functional language does not, in and of itself, render a

claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971)."

This portion of the MPEP goes on to direct that "[a] functional limitation must be

evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to

a person of ordinary skill in the pertinent art in the context in which it is used. A functional

limitation is often used in association with an element, ingredient, or step of a process to define a

particular capability or purpose that is served by the recited element, ingredient or step."

Accordingly, Applicants respectfully submit that it is clear from the directives provided

in the above-quoted portion of the MPEP that such "functional limitations" are not improper and

are in fact limitations of the claim in that the MPEP directs that such functional language "must

be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys

to a person of ordinary skill in the pertinent art (emphasis added) ..." It is respectfully submitted

that those having skill in the art would clearly understand what this claim language fairly

conveys to them. In the event that the Examiner might reassert these assertions with regard to

any of the objections or rejections in the Office Action, the Examiner is respectfully requested to

specifically explain why these directives on MPEP § 2173.05(g) do not apply in any such

particular case.

Rejections under 35 U.S.C. §§ 102(b) and 103(a)

Claims 1-6 and 10-16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by

Cluts. Claims 7-9 and 17-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over

Cluts. Applicants have amended claims 1-20 to differently describe embodiments of the

disclosure of the instant application's specification and/or to improve the form of the claims. To

the extent that these rejections might be deemed to apply to the claims as newly-amended, they

are respectfully traversed for at least the following reasons.

Applicants respectfully submit that the technical field associated with embodiments of

the disclosure of the instant application relates to a unit (apparatus), but not a system. The

technical field of the applied Cluts reference, on the other hand, is directed to an Interactive

Network System, as discussed beginning at col. 4, line 40 of Cluts.

Applicants respectfully submit that an object of the instant application is to extract a song

out of a database inside the AV information processing unit, and also out of a network, as

disclosed in the instant application's specification at, for example, page 16, line 24 – page 17, line 21.

In Cluts, on the other hand, a song is not extracted out of a database inside a system because the system in Cluts does not include a database. Therefore, the system can only extract a song through a network (i.e., on-demand), as disclosed in col. 14, beginning at line 5, of Cluts.

In embodiments of the disclosure of the instant application, a new search term RZ can be registered as discussed, for example, at page 23, lines 1-11, page 32, lines 13-20, and page 33, lines 10-18 of the instant application's specification. On the other hand, Applicants respectfully submit that in Cluts, a user cannot register any new search condition.

In embodiments of the disclosure of the instant application, a searching function and a user learning function independently coexist to associate each other for completing a search. In the course of the search, a new search word RZ may be registered as discussed, for example, at page 32, line 13 – page 37, line 25 of the instant application's specification, and in Figs. 1, 3 and 5 of the instant application.

In Cluts, on the other hand, while a "more like" function is mentioned, Applicants respectfully submit that this "more like" function is not specifically described in the specification to enough of an extent to enable one having ordinary skill to understand how it is implemented. See, for example, col. 14, lines 12-38 and lines 51-62 of Cluts. Accordingly, Applicants respectfully submit that Cluts is silent as to a user learning function. The "style category" of Cluts is merely a category of a song. See col. 14, lines 39-50 of Cluts. The "style EQ" of Cluts merely shows a genre and classification of songs. The numerical reference 1115 in Fig. 11 of Cluts allocates the genres such as rock music respectively to eight equalizers, and makes it

possible to select 1970s, 1980s, soft rock, or the like, by sliding a knob up and down. An object

of this selection is displayed for confirmation on the numerical reference 1110 shown in Fig. 11

of <u>Cluts</u>. Accordingly, Applicants respectfully submit that in <u>Cluts</u>, no learning function is

disclosed.

On the other hand, in embodiments of the disclosure of the instant application, it is

possible to easily and quickly search with the use of an intuitive search term, compatible with

user by user, as discussed, for example, in the paragraph spanning pages 2-3 of the instant

application's specification.

Applicants respectfully submit that in <u>Cluts</u> it is necessary to rely upon a gut feeling to

select songs. Even further, it is necessary for a user to identify an objective song by himself or

herself. Moreover, they should add the song thus identified to the "Play List." For at least the

foregoing reasons, Applicants respectfully submit that the solution to the above-discussed object

to be solved by the disclosure of the instant application cannot be achieved by the disclosure of

<u>Cluts</u>.

Accordingly, independent claim 1 as newly-amended, describes an advantageous

combination of features of an audio visual information processing unit that includes

an audio visual information accumulating device (see, for example, Fig. 1, reference no. 14 of

the instant application and page 33, lines 5-9 of the specification) for accumulating audio visual

information (for example, songs and dramas), which includes audio visual information pieces of

(for example, an indication that a song and singer are plural to correlate songs, singers, and the

like to SP, RZ and the like) any one of audio information, video information and data

information associated with at least any one of the audio information and the video information.

Also included in the combination of claim 1 is a characteristic information accumulating device (for example, reference no. 14 in Fig. 1 and page 23, line 24 – page 24, line 3 and page 31, line 17 - page 32, line 2 of the instant application's specification) that accumulates audio visual characteristic data (for example, the "table" in Fig. 4a) associating the audio visual information pieces with searching parameters (for example, SP) of each of the audio visual information pieces and search condition characteristic data (for example, the "table" in Fig. 4c; aggregate of RZs) associating search conditions with the searching parameters (for example, SP).

The combination of claim 1 also includes an inputting device (for example, reference nos. 1 and 2 in Fig. 1) for receiving a user's input of the search condition (for example, S1 in Fig. 3).

The combination of claim 1 also includes a search device (for example, reference no. 1 in Fig. 1) for searching the search condition characteristic data (see, for example, the "table" in Fig. 4c; aggregate of RZs) to find the search condition thus inputted (see, for example, page 36, lines 3-10 of the instant application's specification; a search condition newly added with the user learning device described below is enabled to be used for searching again, and the search condition always and finally hits a result) and the searching parameters (for example, SP in Fig. 4c) corresponding to the search condition thus inputted, and when the search condition thus inputted and the searching parameters corresponding thereto are found, further searching the audio visual characteristic information (for example in Fig. 4a) to find the audio visual information piece corresponding to the searching parameters thus found (for example, SP in Fig. 4a).

The combination of claim 1 goes on to include a user learning device (for example, reference no. 4 in Fig. 1) for receiving a user input of example information identifying at least

the audio visual information piece (for example, S4 in Fig. 3) which the user supposes to be

represented by the search condition when the search condition is not found with the search

device in the search condition characteristic data (for example "table" in Fig. 4c), searching the

audio visual characteristic data (for example, "table" in Fig. 4a) to find the example information

and searching parameters corresponding to the example information thus inputted, and further

adding the searching parameters corresponding to the example information to the search

condition characteristic data (for example, "table" in Fig. 4c; aggregate of RZs) along with the

search condition (for example, S1 in Fig. 3) thus inputted with the inputting device by the user

(for example, as in page 34, line 11 – page 36, line 2 of the instant application's specification;

when there is no search condition in the "table" of Fig. 4c, corresponding SP is picked out of Fig.

4a and added to Fig. 4c along with the search condition).

Even further, the combination of independent claim 1 includes an outputting device (for

example reference nos. 7 and 8 in Fig. 1) for outputting the audio visual information thus found

with the search device.

Similar features have also been added to newly-amended independent claim 11.

Accordingly, similar arguments as discussed above with regard to newly-amended independent

claim 1 also apply to newly-amended independent claim 11.

Therefore, Applicants respectfully submit that Cluts does not disclose, or even suggest,

the example inputting device of newly-amended independent claims 1 and 11 of the instant

application to any extent. As a result, the rejections should be withdrawn.

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. §§ 102(b)

and 103(a) should be withdrawn because Cluts does not teach or suggest each feature of

independent claims 1 and 11, as newly-amended. As pointed out in MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim." Thus, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. <u>Verdegaal Bros. v. Union Oil Co. Of California</u>, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)." Similarly, MPEP § 2143.03 instructs that "[t]o establish <u>prima facie</u> obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. <u>In re Royka</u>, 409 F.2d 981, 180 USPQ 580 (CCPA 1974)."

Furthermore, Applicants respectfully assert that the dependent claims are allowable at least because of their dependence from independent claims 1 or 11, and the reasons set forth above, and for the additional features that they describe. For example, dependent claims 2 and 12 have been newly-amended to include features, for example, shown as AS2, RQ2, and AS3 in Fig. 5. Also, dependent claims 3, 4, 13 and 14 have been newly-amended to include features, for example, discussed at page 37, lines 21-25 of the instant application's specification in which SP common to a plurality of example information is exclusively added to Fig. 4a.

CONCLUSION

In view of the foregoing amendments and remarks, withdrawal of the objections and rejections and allowance of all pending claims are earnestly solicited. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby

authorized by this paper to charge any additional fees during the entire pendency of this

application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including

any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.

This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF**

TIME in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

DRINKER BIDDLE & REATH LLP

Dated: February 5, 2007   By:

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